

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

JAMES PETTY, #124 252,

\*

Plaintiff,

\*

v.

\*

Case No. 2:06-CV-639-WKW

RAY B. FINEDOR, et al,

\*

Defendants.

\*

**RENEWED MOTION TO DISMISS**

Comes now the Defendant, Edward O. Hardy, by and through his counsel, and renews his previously filed Motion to Dismiss and states as follows:

1. On December 12, 2006, an Order was filed by United States Magistrate Judge Delores R. Boyd ordering the Plaintiff to file a response to written reports on or before January 3, 2007. The Order further stated: "Plaintiff is specifically cautioned that if he fails to file a response in compliance with the directives of this order the undersigned will recommend that this case be dismissed for such failure."
2. On January 4, 2007, Plaintiff filed a Motion for Extension.
3. On January 4, 2007, Defendant Edward O. Hardy filed a Motion to Dismiss Plaintiff's Claims and Objection to Plaintiff's Motion for an Extension as the Plaintiff had failed to comply with the Court's directive.
4. On January 5, 2007, Chief United States Magistrate Judge Charles S.

Coody granted the Plaintiff's Motion for Extension of Time. The Plaintiff was granted an extension from January 3, 2007 to January 23, 2007.

5. As of this filing, the Plaintiff has failed again to adhere to the Court's Order directing his response to be filed on or before January 23, 2007.

The Court's Order of January 5, 2007 was clear in that the deadline for filing was to be on or before January 23, 2007; otherwise, the case would be treated as dismissed.

Therefore, Defendant Edward O. Hardy requests that this Honorable Court dismiss the Plaintiff's claims as he has failed to comply with the Court directive, namely in timely filings.

Respectfully submitted this 25<sup>th</sup> day of January, 2007.

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s/ Clifton F. Hastings  
Clifton F. Hastings (HAS014)  
Attorney for Defendant Edward O. Hardy  
**CERVERA, RALPH & REEVES, LLC**  
914 South Brundidge Street  
P. O. Box 325  
Troy, Alabama 36081  
(334) 566-0116

**CERTIFICATE OF SERVICE**

I hereby certify a copy of the foregoing Answer has been electronically served upon the following on the 25th day of January, 2007 by CM/ECF:

Steven Mallette Sirmon  
Alabama Board of Pardons & Paroles  
301 South Ripley St  
PO Box 302405  
Montgomery, AL 36130  
[steven.sirmon@paroles.alabama.gov](mailto:steven.sirmon@paroles.alabama.gov)

and I hereby certify a copy of the foregoing Answer has been served upon the following by US Mail on the 25th day of January, 2007:

James Petty  
AIS #139044  
Easterling Correctional Facility  
200 Wallace Drive  
Clio, Alabama 36017-2615

\_\_\_\_\_  
s/ Clifton F. Hastings  
Clifton F. Hastings